



Silver Sands Septic to Sewer Wastewater Rules and Regulations Review

To: New Smyrna Beach Utilities
Darren Phegley, P.E., Senior Civil Engineer
Julie Couillard, Director of Engineering and Information Technology
Ellen Fisher, APR, Communications Manager

From: Kelly Smith, P.E.
Carly Bolo, ENV SP
Kimley-Horn and Associates, Inc.

Date: December 4, 2024

Subject: Wastewater Rules and Regulations Review

Background and Purpose

In December of 2023, New Smyrna Beach Utilities (NSBU) was awarded \$7.5 million in grant funding for the conversion of private residential septic systems to municipal sanitary sewer within the Silver Sands area of New Smyrna Beach. Silver Sands is located in the southern portion of New Smyrna Beach, between the Atlantic coast and the intercoastal waterway. This septic to sewer project will decommission approximately 554 residential septic systems and connect those properties to a centralized sewage collection system to be owned, operated, and maintained by NSBU. Once properties are connected to the sewer system, the wastewater generated will be treated at NSBU's wastewater treatment facility through a lift station and gravity collection system.

In preparation of this septic to sewer project a review of state wastewater rules and regulations was conducted to review new regulations driving the need for the Silver Sands project.

Clean Waterways Act

At the state level, Florida Law Chapter 2020-150, cited as the "Clean Waterways Act" is the governing legislation. This bill established Basin Management Action Plans (BMAPs) which require remediation plans to be created for septic systems identified by the Florida Department of Environmental Protection (FDEP) as being in need of remediation. The remediation plans must outline cost effective and feasible septic system connection, upgrade, or replacement projects necessary to reduce nutrient loading. In addition to the requirement of the law, these remediation plans are used, and often required, by grant issuing agencies to identify grant projects and planning for future funding.

The Clean Waterways Act gives grant funding preference to utility owners that implement the requirements of FS-403.088 (Water Pollution Operating Permits) to provide an annual operations report detailing revenues, expenditures, and deviations from the approved remediation plans. Additionally, the Clean Waterways Act

includes provisions to transfer the permitting, monitoring, and enforcement of septic systems from the Florida Department of Health (FDOH) to the FDEP. The regulations and operation transfer were completed in 2022 and included a septic system inspection and monitoring program. This transfer also migrated policies governing septic systems from policies that address public health to policies that address both public health and environmental impacts. This change is expected to increase the State's ability to regulate and enforce the policies. As such, many Florida municipalities are proactively evaluating septic system programs and projects to develop strategies that will maximize the ability to obtain funding from the State.

Beginning in July 2021, the FDEP has made a number of changes to FAC Chapter 62-6, which regulates septic systems. These changes include requiring an annual inspection of performance based septic systems to maintain compliance with operating permits. Performance based septic system owners are also required to be under contract with a system maintenance entity to conduct inspections twice a year. The contact and inspection reports are required to be submitted to the State.

House Bill 1379

In 2023, the Florida Legislature passed House Bill (HB) 1379, with the goal of reducing nitrogen loading from septic systems. Nitrogen loading refers to the amount of nitrogen released into a water body and is typically measured in kilograms per unit area per year.

Traditional septic systems reduce nitrogen loading by approximately 30 to 40 percent which can result in the release of high nitrogen concentrations to surrounding water bodies. To mitigate the amount of nitrogen being released into the environment, HB 1379 requires advanced wastewater collection and treatment systems, referred to as performance enhanced septic systems or nitrogen-reducing systems.

HB 1379 requires properties within an impacted area to either install a nitrogen-reducing septic system or connect to a centralized sewer system by January 1, 2030. Impacted areas have been identified as areas within a BMAP, Reasonable Assurance Plan (RAP) area, or Alternative Restoration Plan area. A summary of key dates associated with HB 1379 conversion requirements are provided below:

- July 1, 2023 – Permit applicants for new septic systems serving lots of one acre or less within an impacted area are required to install a nitrogen-reducing system.
- January 1, 2024 – Permit applications for a new septic system serving lots of any size are required to install a nitrogen-reducing system if located within the Indian River Lagoon Protection Area which includes parts of Volusia, Indian River, Brevard, and St. Lucie County.
- January 1, 2030 – Any commercial or residential property within the Indian River Lagoon Protection Area with an existing septic system must connect to a centralized sewer system, upgrade to a nitrogen-reducing system, or upgrade to another wastewater treatment system that achieves 65 percent nitrogen reduction.

Florida Statutes

[Chapter 381.00655\(2\)\(c\)](#) – This statute states that a local government or water and sewer district that is responsible for the operation of a centralized wastewater system may grant a variance to an owner of a performance-based onsite sewage treatment and disposal system permitted through FDEP. The performance-based septic system owner must ensure the system is functioning properly and stratifying all conditions of the operating permit. This does not apply to a local government or water and sewer district that is located in the following areas:

- An area of critical state concern
- An area that was designated as an area of critical state concern for at least 20 consecutive years prior to the removal of the designation
- An area in the South Florida Water Management District West C-11 basin that discharges through the S-9 pump into the Everglades.
- An area designated by the Lake Okeechobee Protection Act

Local Wastewater Rules and Regulations

Volusia County Ordinance

[Section 122-55](#) – This section of the Volusia County Ordinance states that the owner of a property served by an on-site sewage treatment and disposal system shall connect the plumbing of an establishment or residence on such property to a publicly owned or investor-owned sewerage system when service is available.

City of New Smyrna Beach Ordinance

[Section 82-159](#) – This section of the City of New Smyrna Beach Ordinance states that all properties must connect to a centralized wastewater system when made available and the private sewage disposal facilities shall be abandoned.

[Resolution No. 10-83](#) – This resolution, enacted by the Utilities Commission of New Smyrna Beach, establishes a charge for the availability of wastewater treatment services for residents who are not connected to an available central sewer system. The resolution states that residents have 365 days after notification that a central sewer system is available to connect. If a resident does not connect within 365 days, they shall be deemed a user and charged the minimum fee.

Summary and Findings

The Silver Sands project area is located within the Indian River Lagoon Protection Area as well as the Mosquito Lagoon RAP. Residents within the project area, based on HB 1379, will be required to install a new performance based septic system when applying for a new permit. Additionally, all residents within the project area will either need to install a new performance based septic system or connect to a centralized wastewater system by January 2030.

Based on the review of local ordinances, all residents within the project area will be required to connect to the centralized wastewater system. However, if a homeowner has a performance-based septic system, a variance may be issued in accordance with Florida Statue Chapter 381.00655. To receive a variance homeowners must have installed one of two nitrogen reducing technologies identified under HB 1379, nitrogen-reducing aerobic treatment units or nitrogen-reducing performance-based treatment systems. These systems must be maintained and inspected in accordance with their operating permit which can cause significant costs to be incurred by the homeowner.